

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)	
)	
v.)	No. 2:10-CR-091
)	
COSTON MAJETTE, III)	

MEMORANDUM AND ORDER

The defendant has filed a motion to suppress [doc. 29], arguing that his August 24, 2010 statement to Special Agent Greg Smith was involuntary. Now before the court is the report and recommendation [doc. 38] of Chief Magistrate Judge Dennis H. Inman, recommending that the motion be denied. No objections have been filed by either party within the time set by the court [doc. 39], so the matter is ripe for consideration. Under 28 U.S.C. § 636(b), a *de novo* review by the district court of a magistrate judge's report and recommendation is both statutorily and constitutionally required. *See United States v. Shami*, 754 F.2d 670, 672 (6th Cir. 1985). However, it is necessary only to review “those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b); *see also United States v. Campbell*, 261 F.3d 628, 631-32 (6th Cir. 2001).

“Failure to object . . . waives a party’s right to review.” Fed. R. Crim. P. 59(b)(2). Nonetheless, the court has reviewed the report and recommendation along with the

filings related to the defendant's motion to suppress. The magistrate judge's conclusion that the motion should be denied is correct.

In order to determine whether a defendant's statement was voluntary, the court must determine from a totality of the circumstances whether the defendant's will was overborne. *See United States v. Murphy*, 763 F.2d 202, 205 (6th Cir. 1985). Considering the totality of the circumstances surrounding the taking of the present defendant's statement, the court agrees with the magistrate judge that the statement was knowingly and voluntarily made with a full understanding of his constitutional rights, and that the defendant knowingly and voluntarily waived those rights. The court therefore **ADOPTS** the report and recommendation in its entirety, and it is hereby **ORDERED** that the defendant's motion to suppress [doc. 29] is **DENIED**.

ENTER:

s/ Leon Jordan
United States District Judge